IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 449 OF 2005

Shri Atmaram Pandurang Rasam ... Appellant
(Ori. Defendant No.1)

V/s

Smt. Prabhavati Gangaram Rasam
& ors. ... Respondents

Mr. Rahul S. Kate for the appellant.

CORAM: P.V. KAKADE, J.

DATED: 21ST JUNE, 2005

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by the District Judge, Sindhudurga-Oros dated 28.7.2004 dismissing the appeal and confirming the judgment and order passed by the Civil Judge, Jr. Divn., Kankavali decreeing the suit partly and allowing the plaintiff's claim for partition of his share and separate possession.

2. I have heard the learned counsel for the appellant - defendant No.1. Perused the record.

3. The only question involved in this appeal appears to be the contention of the appellant - defendant No.1 that there was previous partition of the suit property and hence the plaintiff was not entitled to the decree for partition and separate possession of his share in the property. The claim of the appellant appears to be based only on mutation entry found in the revenue records which, in my view, would not be sufficient to come to the conclusion regarding the factum of previous partition alleged by the appellant. This is the view taken by both the Courts below on which basis the appeal came to be dismissed. In other words, no substantial question of law appears to be involved in this appeal and, therefore, I do not propose to disturb the concurrent findings of facts recorded by both the Courts below.

4. In the result, the appeal stands dismissed.

(P.V. Kakade, J.)